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February 9, 2015

Warden Zerillo  
Queens Private Correctional Facility  
182-22 150<sup>th</sup> Avenue  
Jamaica, New York 11413

**RE: United States v. Phillip Kenner**  
Docket No. 13-CR-607

Dear Warden:

On Friday, February 6, 2015, a computer technician employed by my office deleted the software from the Apple Macbook computer previously delivered to your office which allowed internet access by anyone using the computer. Mr. Martinez advised me that when he powered up the Macbook computer last Monday he was able to access a local Wi-Fi transmitter which was not password protected thereby allowing him access to a Home Depot website. I, of course, agree that my client should not have internet access while incarcerated at your facility and believe that the technical problem is now resolved. Accordingly, I am returning the Macbook computer to Mr. Martinez for use by my client as previously discussed with the accompanying password.

As of today, we are fifty-one days away from trial and it is imperative that my client have expanded law library time to review previously provided discovery materials on the Macbook computer. Additionally, the Macbook computer will permit the transfer of select computer files previously provided by the government on a score of CD disks onto the hard drive of the Macbook computer for indexing and cataloging so as to facilitate the retrieval and use of such electronically stored information at trial. Presently, my client is allowed law library access Monday-Friday for one to two hours daily which allotted time is insufficient to permit him to fully prepare for the upcoming trial. Indeed, this case was previously declared a "complex case" for speedy trial purposes given the voluminous amount of Rule 16 discovery materials provided by the government on CD disks. Simply put, I am requesting more than the weekly five to ten hours in the law library currently allotted my client for pre-trial preparation.

Subject to any security concerns, I am proposing that my client be permitted expanded law library time with access to the Macbook computer throughout the week, including Saturday and Sunday. To this end, it is suggested that the Macbook computer be stored and secured with a padlock in one of the gray bins located in the tour commander's office. Because Mr. Martinez leaves at 3:00 p.m. daily and does not work at the facility on Saturday and Sunday, the tour commander would maintain the key for the gray bin and provide the Macbook computer to my client

for his exclusive use throughout the week during the course of his time in the law library. Each day the Macbook computer would then be returned to the tour commander for its use by my client the following day. Mr. Martinez, therefore, could attend to other duties but would have unfettered access to the Macbook computer by contacting the tour commander to ensure the proper use of the Macbook computer by my client while he is incarcerated at your facility.

In order to confirm the disabling of the internet connectivity function on the Macbook computer, Mr. Martinez should “click” on the “Safari” icon. He should then select any or all of the web sites then appearing on the screen to confirm the “No internet access” block. If requested, our office’s computer technician will confirm the disabling of the Macbook’s internet access with an IT specialist selected by the government.

As indicated below, I am providing a copy of this letter to Judge Bianco and Assistant United States Attorney James Miskiewicz by filing it on ECF should the government wish to respond to the defendant’s request for expanded law library time. Once again, I thank you for your continued courtesy and cooperation in this complex case laden with electronically stored information from a multitude of sources as provided by the government in accordance with its obligations under Rule 16.

Very truly yours,

***Richard D. Haley***

RICHARD D. HALEY

cc: Hon. Joseph F. Bianco via ECF  
AUSA James Miskiewicz via ECF